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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

**RIVERWOODS NORTH AURORA, L.L.C. and
VILLAGE OF NORTH AURORA, Kane County,
Illinois,**

Petitioner,

v.

**BURLINGTON NORTHERN and SANTA FE
RAILWAY COMPANY and STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION**

Respondents.

**Petition for an order of the Illinois Commerce
Commission authorizing the improvement of the
existing grade crossing at Riverwoods Lane with
the track of the Burlington Northern and Santa Fe
Railway Company, in the Village of North Aurora,
Kane County, Illinois directing thereon the
installation of automatic protection devices and
re-construction of the crossing proper and
dividing the cost among the parties herewith.**

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T 05-0013

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Illinois Commerce Commission
RAIL SAFETY SECTION

**RESPONDENT, BNSF RAILWAY COMPANY'S MOTION
FOR CONTINUANCE OF PUBLIC HEARING**

Now comes respondent, BNSF Railway Company, formerly known as The Burlington Northern and Santa Fe Railway Company, ("BNSF"), by its attorneys Kenneth J. Wysoglad & Associates and moves the Illinois Commerce Commission for an order continuing the April 7, 2005 scheduled public hearing date to a date after April 15, 2005. In support whereof, BNSF states as follows:

1. On March 3, 2005 petitioners filed their petition in the above captioned cause seeking an order from the Illinois Commerce Commission authorizing the establishment of a new public at grade crossing over the tracks of BNSF Railway Company in the Village of North Aurora, Kane County, Illinois.
2. On March 8, respondent BNSF served its appearance in this cause.
3. On March 10, 2005 respondent BNSF served petitioners with respondent's first request for admission of fact and respondents first request for production of documents. (Exhibits A and B attached). As petitioners have 28 days in which to respond to the aforesaid discovery requests, petitioners responses

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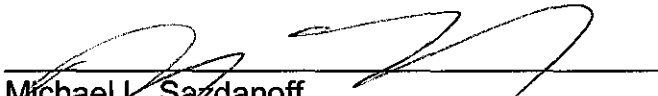
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are not required to be issued until April 7, 2005.

4. Subsequent to the issuance of respondents' discovery requests, counsel for respondent received a copy of the notice of hearing issued by the Illinois Commerce Commission which serves to schedule public hearing in the above captioned cause for April 7, 2005, the date petitioners' discovery responses are due to be served.
5. Respondent BNSF requests that public hearing in this cause be continued to a date after BNSF receives petitioner's discovery responses petitioner's discovery responses may serve to simplify the issues of the case and will enable respondents counsel to more properly prepare for public hearing in this cause.
6. In this case, respondent timely appeared and promptly filed and served its discovery requests. Respondents motion herein is not made for the purpose of delay but rather to permit respondent to properly prepare for public hearing and to endeavor to narrow the issues in the case prior to public hearing.

Wherefore, respondent, BNSF Railway Company requests that the Illinois Commerce Commission enter an order granting respondent's motion herein and continuing the April 7, 2005 public hearing to a date after April 15, 2005.

KENNETH J. WYSOGLAD & ASSOCIATES


Michael L. Sazdanoff

Michael L. Sazdanoff
Kenneth J. Wysoglad & Associates
Attorneys for Respondent
BNSF Railway Company
118 S. Clinton Street, Suite 700
Chicago, Illinois 60661
(312) 441-0333

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dividing the cost among the parties herewith.**

**RESPONDENT, BNSF RAILWAY COMPANY'S FIRST REQUEST FOR ADMISSION
OF FACT DIRECTED TO PETITIONERS, RIVERWOODS NORTH AURORA, LLC
AND VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS**

Now comes respondent, BNSF Railway Company, formerly known as The Burlington Northern and Santa Fe Railway Company, by its attorneys, Kenneth J. Wysoglad & Associates and pursuant to 83 Illinois Administrative Code §200.360(c) and §200.410(c) request that petitioner Riverwoods North Aurora, LLC and Petitioner Village of North Aurora, Kane County, Illinois admit the following facts within 28 days of service hereof:

1. That the "existing crossing" referred to in paragraph 2 of the petition filed in the above captioned cause is a private crossing and not open to use by the general public.

ANSWER:

2. That the east-west driving surface traversing the "existing crossing" referred

EXHIBIT A

to in paragraph 2 of the petition filed in the above captioned cause is a private roadway or accessway.

ANSWER:

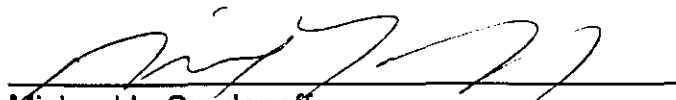
3. That the driving surface traversing BNSF's right of way and the "existing crossing" as referred to in paragraph 2 of the petition filed in the above captioned cause is not a public dedicated roadway under the jurisdiction of the Village of North Aurora, Kane County, Illinois.

ANSWER:

4. That the Village of North Aurora, Kane County, Illinois does not possess a public roadway easement over and across BNSF's right of way and trackage at the location of the proposed roadway and crossing as depicted in Exhibit B (Plan) attached to the petition filed in the above captioned cause.

ANSWER:

KENNETH J. WYSOGLAD & ASSOCIATES


Michael L. Sazdanoff

Michael L. Sazdanoff
Kenneth J. Wysoglad & Associates
Attorneys for Respondent
BNSF Railway Company
118 S. Clinton Street, Suite 700
Chicago, Illinois 60661
(312) 441-0333

PROOF OF SERVICE

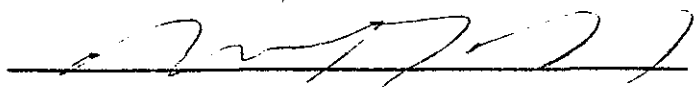
Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 10 day of March, 2005, he caused to be served, a true and correct copy of **RESPONDENT, BNSF RAILWAY COMPANY'S FIRST REQUEST FOR ADMISSION OF FACT DIRECTED TO PETITIONERS, RIVERWOODS NORTH AURORA, LLC AND VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS** upon:

Mr. Edward P. Graham
Law Offices of Edward P. Graham, Ltd.
1112 S. Washington Street, Suite 212
Naperville, Illinois 60540

Mr. Victor Modeer
Director Division of Highways
Illinois Department of Transportation
2300 S. Dirksen Parkway, Suite 300
Springfield, IL 62764

Mr. Brian Vercruysse, P.E.
Railroad Safety Specialist III
Transportation Division
Illinois Commerce Commission
527 W. Capitol Avenue
Springfield, IL 62706

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope with first-class postage, prepaid.

A handwritten signature in black ink, appearing to be "Michael L. Sazdanoff", written over a horizontal line.

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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**RESPONDENT, BNSF RAILWAY COMPANY'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS DIRECTED TO PETITIONERS RIVERWOODS
NORTH AURORA, LLC AND VILLAGE OF
NORTH AURORA, KANE COUNTY, ILLINOIS**

Now comes respondent, BNSF Railway Company, formerly known as The Burlington Northern and Santa Fe Railway Company, ("BNSF"), by its attorneys Kenneth J. Wysoglad & Associates and pursuant to 83 Illinois Administrative Code, §200.360(c) requests that petitioners, Riverwoods North Aurora, LLC and Village of North Aurora, Kane County, Illinois produce to the offices of Kenneth J. Wysoglad & Associates, 118 S. Clinton Street, Suite 700, Chicago, Illinois, 60661, the following documents within 28 days of service hereof:

1. Copies of any and all annexation agreements, pre-annexation agreements, development agreements or other agreements entered into by and between

EXHIBIT B

Riverwoods North Aurora, LLC and Village of North Aurora, Kane County, Illinois with respect to the construction of the proposed roadways and at grade crossing referred to in the petition filed in the above captioned cause.

2. Copies of any annexation agreements, pre-annexation agreements, development agreements or other agreements entered into by and between Riverwoods North Aurora, LLC and Village of North Aurora, Kane County, Illinois relative to the construction or development of the North Aurora Riverfront Townhome development referred to in paragraph 7 of the petition filed in the above captioned cause.

KENNETH J. WYSOGLAD & ASSOCIATES


Michael L. Sazdanoff

Michael L. Sazdanoff
Kenneth J. Wysoglad & Associates
Attorneys for Respondent
BNSF Railway Company
118 S. Clinton Street, Suite 700
Chicago, Illinois 60661
(312) 441-0333

PROOF OF SERVICE

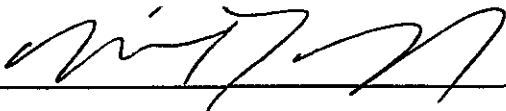
Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 10th day of March, 2005, he caused to be served, a true and correct copy of **RESPONDENT, BNSF RAILWAY COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PETITIONERS RIVERWOODS NORTH AURORA, LLC AND VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS** upon:

Mr. Edward P. Graham
Law Offices of Edward P. Graham, Ltd.
1112 S. Washington Street, Suite 212
Naperville, Illinois 60540

Mr. Victor Modeer
Director Division of Highways
Illinois Department of Transportation
2300 S. Dirksen Parkway, Suite 300
Springfield, IL 62764

Mr. Brian Vercruysse, P.E.
Railroad Safety Specialist III
Transportation Division
Illinois Commerce Commission
527 W. Capitol Avenue
Springfield, IL 62706

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope with first-class postage, prepaid.



PROOF OF SERVICE

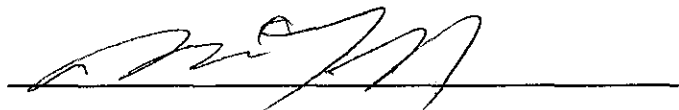
Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 16 day of March, 2005, he caused to be served, a true and correct copy of **RESPONDENT, BNSF RAILWAY COMPANY'S MOTION FOR CONTINUANCE OF PUBLIC HEARING** upon:

Mr. Edward P. Graham
Law Offices of Edward P. Graham, Ltd.
1112 S. Washington Street, Suite 212
Naperville, Illinois 60540

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Director Division of Highways
Illinois Department of Transportation
2300 S. Dirksen Parkway, Suite 300
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